

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 567
97TH GENERAL ASSEMBLY

4341H.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, and 660.420, RSMo, and to enact in lieu thereof sixteen new sections relating to adult day care, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 2 660.416, 660.418, and 660.420, RSMo, are repealed and sixteen new sections enacted in lieu 3 thereof, to be known as sections 660.400, 660.403, 660.404, 660.405, 660.406, 660.407, 4 660.409, 660.411, 660.414, 660.416, 660.417, 660.418, 660.420, 660.422, 660.423, and 660.424, 5 to read as follows:

660.400. As used in sections 199.025 and 660.403 to 660.420, unless the context clearly 2 indicates otherwise, the following terms mean:

3 (1) **"Abuse", the infliction of physical, sexual, or emotional injury or harm;**

4 (2) "Adult", an individual over the age of eighteen;

5 [(2)] (3) "Adult day care program", a group program designed to provide care and 6 supervision to meet the needs of functionally impaired adults for periods of less than twenty-four 7 hours but more than two hours per day in a place other than the adult's own home;

8 [(3)] (4) "Adult day care provider", the person, corporation, partnership, association or 9 organization legally responsible for the overall operation of the adult day care program;

10 [(4)] (5) "Department", the department of [social services] **health and senior services;**

11 [(5)] "Director", the director of the division of aging;

12 (6) "Division", the division of aging;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (7) (6) "Functionally impaired adult", an adult who by reason of age or infirmity
14 requires care and supervision;

15 [(8)] (7) "License", the document issued by the [division] **department** in accordance
16 with the provisions of sections [199.025 and] 660.403 to 660.420 to an adult day care program
17 which authorizes the adult day care provider to operate the program in accordance with the
18 provisions of sections [199.025 and] 660.403 to 660.420 and the applicable rules promulgated
19 pursuant thereto;

20 (8) **"Operator", any person licensed or required to be licensed under the provisions
21 of sections 660.400 to 660.420 in order to establish, conduct, or maintain an adult day care
22 program;**

23 (9) "Participant", a functionally impaired adult who is enrolled in an adult day care
24 program;

25 (10) "Person", any individual, firm, corporation, partnership, association, agency, or an
26 incorporated or unincorporated organization regardless of the name used;

27 (11) ["Provisional license", the document issued by the division in accordance with the
28 provisions of sections 199.025 and 660.403 to 660.420 to an adult day care provider which is not
29 currently meeting the requirements necessary to obtain a license;

30 (12)] "Related", any of the following by blood, marriage or adoption: parent, child,
31 grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first
32 cousin;

33 [(13)] (12) "Staff participant ratio", the number of adult care staff required by the
34 division in relation to the number of adults being cared for by such staff;

35 (13) **"Substantial noncompliance", any violation of a class I or class II standard or
36 twenty or more violations of class III standards.**

660.403. 1. It shall be unlawful for any person to establish, maintain, or operate an adult
2 day care program, or to advertise or hold himself out as being able to perform any adult day care
3 service, unless he has obtained the proper license.

4 2. All applications for licenses shall be made on forms provided by the [division]
5 **department** and in the manner prescribed by the [division] **department**. All forms provided
6 shall include a fee schedule.

7 3. **The applicant shall submit all documents required by the department under this
8 section attesting by signature that the statements contained in the application are true and
9 correct to the best of the applicant's knowledge and belief, and that all required documents
10 are either included with the application or are currently on file with the department.**

11 4. **Within ten working days of the effective date of any document that replaces,
12 succeeds, or amends any of the documents required by the department to be filed pursuant**

13 **to this section, an operator shall file with the department a copy of such document. The**
14 **operator shall attest by signature that the document is true and correct.**

15 **5. If an operator fails to file documents or amendments to documents as required**
16 **pursuant to this section and such failure is part of a pattern or practice of concealment,**
17 **such failure shall be sufficient grounds for revocation of a license or disapproval of an**
18 **application for a license.**

19 **6. Upon receipt of an application for a license to operate an adult day care**
20 **program, the [division] department shall [conduct an investigation of the adult day care**
21 **program, and the applicant, for which a license is sought in order to determine if such program**
22 **is complying with the following] review the application, investigate the applicant and the**
23 **statements sworn to in the application for license and conduct any necessary inspections.**
24 **A license shall be issued if the following requirements are met:**

25 (1) [Local fire safety requirements or fire safety requirements of the division if there are
26 no local codes] **The statements in the application are true and correct;**

27 (2) [Local or state sanitation requirements] **The adult day care program and the**
28 **operator are in substantial compliance with the provisions of sections 660.400 to 660.420**
29 **and the standards established thereunder;**

30 (3) [Local building and zoning requirements, where applicable] **Neither the operator**
31 **nor any principals in the operation of the adult day care program have ever been convicted**
32 **of a felony offense concerning the operation of an adult day care program, long-term**
33 **health care facility or other health care facility;**

34 (4) [Staff/adult ratios required by the division] **Neither the operator or any principals**
35 **in the operation of the adult day care program are listed on the employee disqualification**
36 **list maintained by the department; and**

37 (5) [Other applicable provisions of sections 199.025 and 660.403 to 660.420 and all
38 applicable rules promulgated pursuant thereto, including but not limited to:

39 (a) The applicant's ability to render adult day care;

40 (b) The proposed plan for providing adult day care;

41 (c) The proposed plan of operation of the adult day care program, so that, in the
42 judgment of the division, minimum standards are being met to insure the health and safety of the
43 participants] **All fees due to the state have been paid.**

44 [4. Following completion of its investigation made pursuant to subsection 3 of this
45 section and a finding that the applicant for a license has complied with all applicable rules
46 promulgated pursuant to sections 199.025 and 660.403 to 660.420 the division shall issue a
47 license to such applicant.]

48 7. Such license shall be valid for the period designated by the [division] **department**,
49 which period shall not exceed two years from the date of issuance, for the premises and persons
50 named in the application.

51 **8. Upon denial of any application for a license, the department shall notify the**
52 **applicant in writing, set forth therein the reasons and grounds for denial.**

53 [5.]**9.** Each license issued under sections [199.025 and] 660.403 to 660.420 shall include
54 the name of the [provider, owner and] operator; the name of the adult day care program; the
55 location of the adult day care program; the hours of operations; the number [and any limitations
56 or the type] of participants who may be served; and the period for which such license is valid.

57 [6. The division may issue a provisional license to an adult day care program that is not
58 currently meeting requirements for a license but which demonstrates the potential capacity to
59 meet full requirements for license; except that, no provisional license shall be issued unless the
60 director is satisfied that the operation of the adult day care program is not detrimental to the
61 health and safety of the participants being served. The provisional license shall be nonrenewable
62 and shall be valid for the period designated by the division, which period shall not exceed six
63 months from the date of issuance. Upon issuance of a regular license, a day care program's
64 provisional license shall immediately be null and void]

65 **10. The department may grant an operator a temporary operating permit in order**
66 **to allow for state review of the application and inspection for the purposes of relicensure**
67 **if the application review and inspection process has not been completed prior to the**
68 **expiration of a license and the applicant is not at fault for the failure to complete the**
69 **application review and inspection process.**

660.404. 1. Whenever a duly authorized representative of the department finds
2 **upon an inspection of an adult day care program that it is not in compliance with the**
3 **provisions of sections 660.400 to 660.420 and the standards established thereunder, the**
4 **operator shall be informed of the deficiencies in an exit interview conducted with the**
5 **operator or his designee. The department shall inform the operator or designee, in writing,**
6 **of any violation of a class I standard at the time the determination is made. If there was**
7 **a violation of any class I standard, immediate corrective action shall be taken by the**
8 **operator or designee and a written plan of correction shall be submitted to the department.**
9 **A written report shall be prepared of any deficiency and a copy of such report and a**
10 **written correction order shall be sent to the operator or designee by certified mail or other**
11 **delivery service that provides a dated receipt of delivery at the adult day care program**
12 **address within ten working days after the inspection, stating separately each deficiency and**
13 **the specific statute or regulation violated.**

14 **2. The operator or designee shall have five working days following receipt of a**
15 **written report and correction order regarding a violation of a class I standard and ten**
16 **working days following receipt of the report and correction order regarding violations of**
17 **class II or class III standards to submit a plan of correction for the department's approval**
18 **which contains specific dates for achieving compliance. Within five working days after**
19 **receiving a plan of correction regarding a violation of a class I standard and within ten**
20 **working days after receiving a plan of correction regarding a violation of a class II or III**
21 **standard, the department shall give its written approval or rejection of the plan.**

22 **3. If there was a violation of a class I standard, an unannounced reinspection shall**
23 **be conducted within twenty calendar days of the exit interview to determine if deficiencies**
24 **have been corrected. If there was a violation of any class II standard and the plan of**
25 **correction is acceptable, an unannounced reinspection shall be conducted between forty**
26 **and ninety calendar days from the date of the exit conference to determine the status of all**
27 **previously cited deficiencies. If there was a violation of class III standards sufficient to**
28 **establish that the adult day care program was not in substantial compliance, an**
29 **unannounced reinspection shall be conducted within one hundred twenty days of the exit**
30 **interview to determine the status of previously identified deficiencies.**

31 **4. In establishing standards for each type of adult day care program, the**
32 **department shall classify the standards into three categories as follows:**

33 **(1) Class I standards are standards the violation of which would present either an**
34 **imminent danger to the health, safety or welfare of any participant or a substantial**
35 **probability that death or serious physical harm would result;**

36 **(2) Class II standards are standards which have a direct or immediate relationship**
37 **to the health, safety or welfare of any participant, but which do not create imminent**
38 **danger;**

39 **(3) Class III standards are standards which have an indirect or a potential impact**
40 **on the health, safety or welfare of any participant.**

41 **5. Every adult day care program shall make available the most recent inspection**
42 **report of the adult day care program. If the operator determines that the inspection report**
43 **of the adult day care program contains individually identifiable health information, the**
44 **operator may redact such information prior to making the inspection report available.**

45 **6. If an adult day care program submits satisfactory documentation that establishes**
46 **correction of any deficiency contained within the written report of deficiency required by**
47 **section 600.404, an on-site revisit of such deficiency may not be required.**

48 **7. If, following the reinspection, the adult day care program is found not in**
49 **substantial compliance with sections 660.400 to 660.420 and the standards established**

50 thereunder or the operator is not correcting the noncompliance in accordance with the
51 plan of correction, the department shall issue a notice of noncompliance, which shall be
52 sent by certified mail or other delivery service that provides a dated receipt of delivery to
53 the operator of the adult day care program, according to the most recent information or
54 documents on file with the department.

55 **8. The notice of noncompliance shall inform the operator or administrator that the**
56 **department may seek the imposition of any other action authorized by law.**

57 **9. At any time after an inspection is conducted, the operator may choose to enter**
58 **into a consent agreement with the department to obtain a probationary license. The**
59 **consent agreement shall include a provision that the operator will voluntarily surrender**
60 **the license if substantial compliance is not reached in accordance with the terms and**
61 **deadlines established under the agreement. The agreement shall specify the stages, actions**
62 **and time span to achieve substantial compliance.**

63 **10. Whenever a notice of noncompliance has been issued, the operator shall post**
64 **a copy of the notice of noncompliance and a copy of the most recent inspection report in**
65 **a conspicuous location in the adult day care program, and the department shall send a**
66 **copy of the notice of noncompliance to concerned federal, state or local governmental**
67 **agencies.**

660.405. 1. The department may revoke a license in any case in which it finds that:

2 **(1) The operator failed or refused to comply with class I or II standards, as**
3 **established by the department pursuant to section 660.404; or failed or refused to comply**
4 **with class III standards as established by the department pursuant to section 660.404,**
5 **where the aggregate effect of such noncompliances presents either an imminent danger to**
6 **the health, safety or welfare of any participant or a substantial probability that death or**
7 **serious physical harm would result;**

8 **(2) The operator refused to allow representatives of the department to inspect the**
9 **adult day care program for compliance with standards or denied representatives of the**
10 **department access to participants and employees necessary to carry out the duties set forth**
11 **in this chapter and rules promulgated thereunder, except where employees of the adult day**
12 **care program are in the process of rendering immediate care to a participant of such adult**
13 **day care program;**

14 **(3) The operator demonstrated financial incapacity to operate and conduct the**
15 **adult day care program in accordance with the provisions of sections 660.400 to 660.420;**

16 **(4) The operator or any principals in the operation of the adult day care program**
17 **have ever been convicted of, or pled guilty or nolo contendere to a felony offense**

18 **concerning the operation of an adult day care program, long-term health care facility or**
19 **other health care facility; or**

20 **(5) The operator or any principals in the operation of the adult day care program**
21 **are listed on the EDL maintained by the department.**

22 **2. Upon revocation of a license, the department shall so notify the operator in**
23 **writing, setting forth the reason and grounds for the revocation. Notice of such revocation**
24 **shall be sent either by certified mail, return receipt requested, to the operator at the**
25 **address of the adult day care program, or served personally upon the operator. The**
26 **department shall provide the operator notice of such revocation at least ten calendar days**
27 **prior to its effective date.**

[660.405.] **660.406.** 1. The provisions of sections [199.025 and] 660.403 to 660.420
2 shall not apply to the following:

3 (1) Any adult day care program operated by a person in which care is offered for no more
4 than two hours per day;

5 (2) Any adult day care program maintained or operated by the federal government except
6 where care is provided through a management contract;

7 (3) Any person who cares solely for persons related to the provider or who has been
8 designated as guardian of that person;

9 (4) Any adult day care program which cares for no more than four persons unrelated to
10 the provider;

11 (5) Any adult day care program licensed by the department of mental health under
12 chapter 630 which provides care, treatment and habilitation exclusively to adults who have a
13 primary diagnosis of mental disorder, mental illness, [mental retardation] **intellectual disability,**
14 or developmental disability as defined;

15 (6) Any adult day care program administered or maintained by a religious not-for-profit
16 organization serving a social or religious function if the adult day care program does not hold
17 itself out as providing the prescription or usage of physical or medical therapeutic activities or
18 as providing or administering medicines or drugs.

19 2. Nothing in this section shall prohibit any person listed in subsection 1 of this section
20 from applying for a license or receiving a license if the adult day care program owned or operated
21 by such person conforms to the provisions of sections [199.025 and] 660.403 to 660.420 and all
22 applicable rules promulgated pursuant thereto.

660.407. 1. The [director, or his authorized representative,] **department** shall have the
2 right to enter the premises of an applicant for or holder of a license at any time during the hours
3 of operation of a center to determine compliance with provisions of sections [199.025 and]
4 660.403 to 660.420 and applicable rules promulgated pursuant thereto. Entry shall also be

5 granted for investigative purposes involving complaints regarding the operations of an adult day
6 care program. The division shall make at least two inspections per year, at least one of which
7 shall be unannounced to the operator or provider. The division may make such other inspections,
8 announced or unannounced, as it deems necessary to carry out the provisions of sections
9 [199.025 and] 660.403 to 660.420.

10 2. **The department may reduce the frequency of inspections to once a year if an**
11 **adult day care program is found to be in substantial compliance. The basis for such**
12 **determination shall include, but not be limited to, the following:**

13 (1) **Previous inspection reports;**

14 (2) **The adult day care program's history of compliance with rules promulgated**
15 **pursuant to this chapter; and**

16 (3) **The number and severity of complaints received about the adult day care**
17 **program.**

18 3. The applicant for or holder of a license shall cooperate with the investigation and
19 inspection by providing access to the adult day care program, records and staff, and by providing
20 access to the adult day care program to determine compliance with the rules promulgated
21 pursuant to sections [199.025 and] 660.403 to 660.420.

22 [3.] 4. Failure to comply with any lawful request of the [division] **department** in
23 connection with the investigation and inspection is a ground for refusal to issue a license or for
24 the [suspension or] revocation of a license.

25 [4.] 5. The [division] **department** may designate to act for it, with full authority of law,
26 any instrumentality of any political subdivision of the state of Missouri deemed by the [division]
27 **department** to be competent to investigate and inspect applicants for or holders of licenses.

660.409. Each application for a license, or the renewal thereof, issued pursuant to
2 sections [199.025 and] 660.403 to 660.420 shall be accompanied by a nonrefundable fee in the
3 amount required by the [division] **department**. The fee, to be determined by the [director of the
4 division] **department**, shall not exceed one hundred dollars and shall be based on the licensed
5 capacity of the applicant.

660.411. The [division] **department** shall [offer] **create an adult day care program**
2 **manual in partnership with the provider association to establish uniformity across the state**
3 **and shall offer regional training sessions in order to provide** technical assistance or
4 consultation to assist applicants for or holders of licenses or provisional licenses in meeting the
5 requirements of sections [199.025 and] 660.403 to 660.420, staff qualifications, and other
6 aspects involving the operation of an adult day care program, and to assist in the achievement
7 of programs of excellence related to the provision of adult day care. **The program manual and**

8 **regional training sessions required under this section shall be made available to adult day**
9 **care programs by January 1, 2015.**

660.414. 1. Whenever the [division] **department** is advised or has reason to believe that
2 any person is operating an adult day care program without a license, [or provisional license,] or
3 that any holder of license[, or provisional license] is not in compliance with the provisions of
4 sections [199.025 and] 660.403 to 660.420, the [division] **department** shall make an
5 investigation and inspection to ascertain the facts. If the [division] **department** is not permitted
6 access to the adult day care program in question, the [division] **department** may apply to the
7 circuit court of the county in which the program is located for an order authorizing entry for
8 inspection. The court shall issue the order if it finds reasonable grounds necessitating the
9 inspection.

10 2. If the [division] **department** finds that the adult day care program is being operated
11 in violation of sections [199.025 and] 660.403 to 660.420, it may seek, among other remedies,
12 injunctive relief against the adult day care program.

660.416. 1. Any person aggrieved by an official action of the [division] **department**
2 either refusing to issue a license or revoking or suspending a license may seek a determination
3 thereon by the administrative hearing commission pursuant to the provisions of section [161.272,
4 et seq.] **621.045**; except that, the petition must be filed with the administrative hearing
5 commission within thirty **calendar** days after the [mailing or] delivery of notice to the applicant
6 for or holder of such license or certificate. When the notification of the official action is mailed
7 to the applicant for or holder of such a license, there shall be included in the notice a statement
8 of the procedure whereby the applicant for or holder of such license may appeal the decision of
9 the [division] **department** before the administrative hearing commission. It shall not be a
10 condition to such determination that the person aggrieved seek a reconsideration, a rehearing or
11 exhaust any other procedure within the [division] **department**.

12 2. The administrative hearing commission may stay the revocation [or suspension] of
13 such certificate or license, pending the commission's findings and determination in the cause,
14 upon such conditions as the commission deems necessary and appropriate including the posting
15 of bond or other security; except that, the commission shall not grant a stay or if a stay has
16 already been entered shall set aside its stay, if, upon application of the [division] **department**,
17 the commission finds reason to believe that continued operation of the [facility] **adult day care**
18 **program** to which the certificate or license in question applies pending the commission's final
19 determination would present an imminent danger to the health, safety or welfare of any person
20 or a substantial probability that death or serious physical harm would result. In any case in which
21 the [division] **department** has refused to issue a certificate or license, the commission shall have

22 no authority to stay or to require the issuance of a license pending final determination by the
23 commission.

24 3. The administrative hearing commission shall make the final decision as to the
25 issuance[, suspension,] or revocation of a license. Any person aggrieved by a final decision of
26 the administrative hearing commission, including the [division] **department**, may seek judicial
27 review of such decision by filing a petition for review in the court of appeals for the district in
28 which the adult day care program to which the license in question applies is located. Review
29 shall be had, **except as provided in this section**, in accordance with the provisions of sections
30 [161.337 and 161.338] **621.189 and 621.193**.

**660.417. The department shall promulgate reasonable standards and regulations
2 for adult day care programs. The standards and regulations shall relate to licensure
3 requirements, staffing requirements, program policies and participant care requirements,
4 participant right requirements, record keeping requirements, fire safety requirements and
5 physical plant requirements.**

660.418. The [director of the division] **department** shall have the authority to
2 promulgate rules pursuant to this section and chapter 536 in order to carry out the provisions of
3 sections [199.025 and] 660.403 to 660.420. No rule or portion of a rule promulgated under the
4 authority of section 199.025 and sections 660.403 to 660.420 shall become effective unless it has
5 been promulgated pursuant to the provisions of section 536.024.

660.420. 1. Any person who violates any provision of sections [199.025 and] 660.403
2 to 660.420, or who, for himself or for any other person, makes materially false statements in
3 order to obtain a certificate or license, or the renewal thereof, issued pursuant to sections
4 [199.025 and] 660.403 to 660.420, shall be guilty of a class A misdemeanor. **Any person
5 violating this subsection wherein abuse or neglect of a participant of the program has
6 occurred is guilty of a class D felony.**

7 2. Any person who is convicted pursuant to this section shall, in addition to all other
8 penalties provided by law, have any license issued to him under sections [199.025 and] 660.403
9 to 660.420 revoked, and shall not operate, nor hold any license to operate, any adult day care
10 program, or other entity governed by the provisions of sections [199.025 and] 660.403 to
11 660.420 for a period of three years after such conviction.

660.422. 1. The department may provide through its internet website:

2 **(1) The most recent inspection of every adult day care program licensed in this state
3 and any such findings of deficiencies and the effect the deficiency would have on such
4 program. If such inspection is in dispute, the inspection shall not be posted on the website
5 until the program's informal dispute resolution process resolves the dispute; and**

6 **(2) The program's proposed plan of correction.**

7 **2. Nothing in this section shall be construed as requiring the department to post any**
8 **information on its internet website that is prohibited from disclosure pursuant to the**
9 **federal Health Insurance Portability and Accountability Act, as amended.**

660.423. 1. As used in this section, the following terms shall mean:

2 **(1) "Deficiency", a program's failure to meet a participation requirement or**
3 **standard supported by evidence gathered from observation, interview, or record review;**

4 **(2) "IDR", informal dispute resolution as provided for in this section;**

5 **(3) "Independent third party", the federally designated Medicare Quality**
6 **Improvement Organization in this state;**

7 **(4) "Plan of correction", a program's response to deficiencies which explains how**
8 **corrective action will be accomplished, how the program will identify other participants**
9 **who may be affected by the deficiency practice, what measures will be used or systemic**
10 **changes made to ensure that the deficient practice will not reoccur, and how the program**
11 **will monitor to ensure that solutions are sustained.**

12 **2. The department may contract with an independent third party to conduct**
13 **informal dispute resolution (IDR) for programs licensed under this chapter. The IDR**
14 **process, including conferences, shall constitute an informal administrative process and**
15 **shall not be construed to be a formal evidentiary hearing. Use of IDR under this section**
16 **shall not waive the program's right to pursue further or additional legal actions.**

17 **3. The department shall establish an IDR process to determine whether a cited**
18 **deficiency as evidenced by a statement of deficiencies against a program shall be upheld.**
19 **The IDR process shall include the following minimum requirements:**

20 **(1) Within ten working days of the end of the inspection, the department shall**
21 **transmit to the program a statement of deficiencies committed by the program.**
22 **Notification of the availability of an IDR and IDR process shall be included in the**
23 **transmittal;**

24 **(2) Within ten working days of receipt of the statement of deficiencies, the program**
25 **shall return a plan of correction to the department. Within such ten-day period, the**
26 **program may request in writing an IDR conference to refute the deficiencies cited in the**
27 **statement of deficiencies;**

28 **(3) Within ten working days of receipt for an IDR conference made by an adult day**
29 **care program, the department shall hold an IDR conference unless otherwise requested by**
30 **the program. The IDR conference shall provide the program with an opportunity to**
31 **provide additional information or clarification in support of the program's contention that**
32 **the deficiencies were erroneously cited. The program may be accompanied by counsel**

33 **during the IDR conference. The type of IDR held shall be at the discretion of the program,**
34 **but shall be limited to:**

35 **(a) A desk review of written information submitted by the program; or**

36 **(b) A telephonic conference; or**

37 **(c) A face-to-face conference.**

38 **4. Within ten calendar days of the IDR conference described in subsection 3 of this**
39 **section, the department shall make a determination, based upon the facts and findings**
40 **presented, and shall transmit the decision and rationale for the outcome in writing to the**
41 **program.**

42 **5. If the original statement of deficiencies should be changed as a result of the IDR**
43 **conference, the department shall transmit a revised statement of deficiencies to the**
44 **program with the notification of the determination within ten calendar days of the decision**
45 **to change the statement of deficiencies.**

46 **6. Within ten working days of receipt of the determination and the revised**
47 **statement of deficiencies, the program shall submit a plan of correction to the department.**

48 **7. The department shall not post on its website any information about the**
49 **deficiencies which are in dispute unless the dispute determination is made and the program**
50 **has responded with a revised plan of correction, if needed.**

51 **8. Any rule or portion of a rule, as that term is defined in section 536.010 that is**
52 **created under the authority delegated in this section shall become effective only if it**
53 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**
54 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
55 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
56 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
57 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2014,**
58 **shall be invalid and void.**

660.424. Adult day programs licensed under sections 660.403 to 660.420 shall
2 **evaluate the program rate structure in FY 2015 and determine a cost-based uniform rate**
3 **for services to be presented as a budget line item in the Department of Health and Senior**
4 **Services FY 2016 budget request for adult day programs which provide care, treatment,**
5 **rehabilitation, and habilitation exclusively to adults and seniors with physical disabilities,**
6 **mental, neurological, and cognitive disorders such as brain injuries, dementia, and other**
7 **intellectual impairments, excluding in the budget request, the cost for individuals already**
8 **funded by a department of mental health waiver.**

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